

Idaho Department of Environmental Quality

Air Quality Zero Based Rulemaking
Docket 58-0101-2101
October 28, 2021



Agenda

- Welcome and Introductions
- Overview – Preliminary Draft Rule
- Discussion
- Comment deadline November 12, 2021
- Next meeting November 30, 2021

Rulemaking Purpose

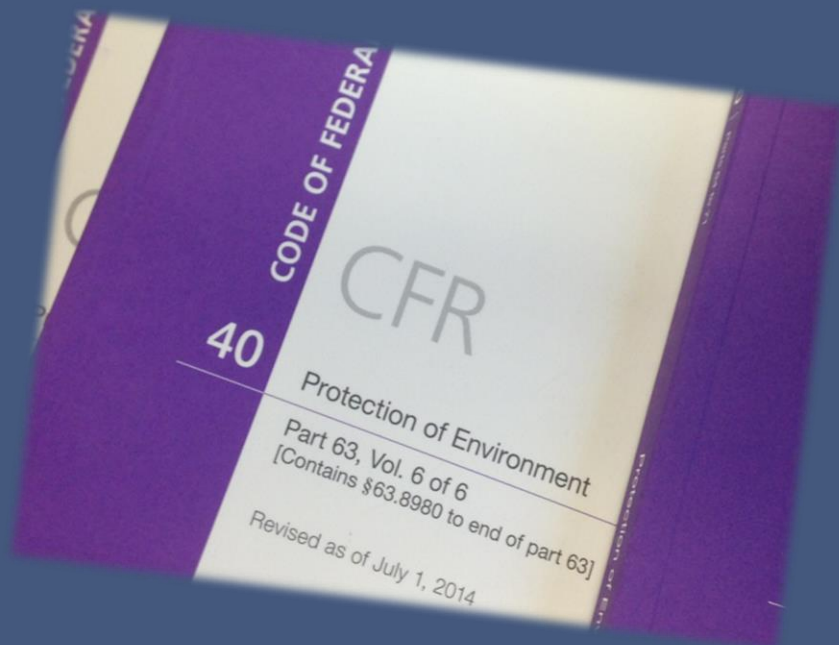
DEQ initiated this rulemaking to comply with
Executive Order 2020-01:

Zero-Based Regulation



Primacy

- Implement CAA in Idaho
 - NAAQS
 - Title V
- IBR



Process

IDAHO ADMINISTRATIVE BULLETIN

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Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator



- Expert initial screening
 - Legal and programmatic review
- Primacy

Negotiated Rulemaking Schedule

Rulemaking Schedule	2021						2022												2023		
Negotiated Zero Based Rulemaking	Q3			Q4			Q1			Q2			Q3			Q4			Q1		
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
1st Meeting				x																	
2nd Meeting					x																
3rd Meeting						x															
4th Meeting									?												
5th Meeting										?											
6th Meeting											?										
Board Meeting																	x				
Present to Legislature																			x		

- Early stakeholder engagement
- Written comments

Posted documents

001. TITLE AND SCOPE.

These rules are titled IDAPA 58.01.01, Rules of the Department of Environmental Quality, IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho.” [These rules](#) and [provide](#) for the control of air pollution in Idaho.

002. WRITTEN INTERPRETATIONS.

~~The Department of Environmental Quality has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The written statements are available for public inspection and copying at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502.~~

002 Discussion: Not necessary. Anyone who has questions about our rules, can contact the department as needed.

Today's Approach

- Examples
- Questions at the end



IBR Example

- Hazardous Air Pollutant definition removed

~~55. Hazardous Air Pollutant (HAP). Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants.~~

006.55 Discussion: DEQ incorporates by reference See Clean Air Act Section 112.

IBR Example

- Fugitive Emissions definition is kept

47. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

006.47 DEQ incorporates by reference. See definitions in 52.21(b)(20).

IBR Example - Keep

- Emissions Increase (007.04) and Projected Actual Emissions (007.08)

~~04. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit.~~

~~08. Projected Actual Emissions.~~

~~a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source.~~

Streamlining Examples

- Definition of Mercury – moved into definition of MBACT

~~66. Mercury. Total mercury including elemental mercury and mercury compounds.~~

006.66 Discussion: Definition added to 006.67.

67. **Mercury Best Available Control Technology (MBACT).** An emission standard for mercury (including elemental mercury and mercury compounds) based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis taking into account energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT ~~will~~shall be valid until the source subject to the MBACT is modified. If the proposed modification to the source subject to MBACT occurs within ten (10) years of the MBACT determination, a new MBACT review ~~shall not be~~is ~~not~~ triggered as long as the source can meet the existing MBACT requirements. If the proposed modification occurs more than ten (10) years after the MBACT determination, then the proposed modification ~~shall~~ will be subject to a new MBACT review.

Streamlining Examples

- Definition of Significant - revised into table format

a. Criteria Pollutant Significant emission rate

<u>Criteria Pollutant</u>	<u>Emission Rate (tons/year)</u>
<u>CO</u>	<u>100</u>
<u>NO_x</u>	<u>40</u>
<u>SO₂</u>	<u>40</u>
<u>Ozone as NO_x</u>	<u>40</u>
<u>Ozone as VOC</u>	<u>40</u>
<u>PM</u>	<u>25</u>
<u>PM₁₀</u>	<u>15</u>
<u>PM_{2.5}</u>	<u>10</u>
<u>PM_{2.5} as SO₂</u>	<u>40</u>
<u>PM_{2.5} as NO_x</u>	<u>40</u>
<u>Pb</u>	<u>0.6</u>

Streamlining Examples

- Section 790 – 799 Rules for the Control of Nonmetallic Mineral Processing Plant
 - Deleted Section 792 referring to 40 CFR 60, Subpart 000
 - 795.02 - Changed registration requirements for Permit by Rule to using DEQ forms rather than the list spelled out in the rule
 - Created one citizen complaint tracking requirement for all control strategies than listing it separately under each requirement

Variance Rule Example

- The variance requirements are in Sections 140-149 of the Rules
- This Section was deleted entirely
- It is not in our EPA approved State Implementation Plan
- It is not used
- Consent Orders can be used instead

Hot Mix Asphalt (HMA) and Wigwam Burners Rule Example

- The HMA requirements are in Sections 805-808 of the Rules
- The current HMA General Permit places more requirements on these operations than this Section of the Rules requires – thus it was deleted
- The wigwam burner requirements are in Section 626 of the Rules
- There are no longer any wigwam burners in Idaho – thus it was deleted

Odor Rule Example

- The Odor Rule requirements are in Sections 775 and 776 of the Rules
- This Section was deleted entirely
- Not a requirement of the Clean Air Act (CAA)
- States generally do not regulate odors
- Odors are regulated by Cities and Counties
- Very difficult to enforce because it is subjective
- Note: Section 835 of the Rules still has enforceable odor requirements for rendering plants

Sections 550 - 556 Air Pollution Emergency Rule

- Simplified the language
- Deleted repetitive or explanatory text
- Combined all trigger levels into 1 table
- Changed first level to Advisory
- Reorganized order to allow for better flow
- Clarified requirements for open burning under the Advisory section and copied to Alert, Warning, and Emergency for clarification and consistency.
- **DID NOT**
 - Change Triggers (only corrected units)
 - Change what is prohibited for each level

Sections 557 – 560 Public Notification

~~5538. INFORMATION TO BE GIVEN~~NOTIFICATION OF AIR QUALITY EPISODE.

~~01. Information to Be Given.~~ On the basis of degrading air quality as determined by the Director, and the criteria for emergency episode stages as shown in Section 556, When the Department declares an air quality episode, ~~it the Director~~ will utilize appropriate media and social media ~~and techniques~~ including, but not limited to, print, electronic and internet, to ensure that the following information is announced to the public, affected government, ~~and~~ commercial, industrial, institutional and agricultural entities as practicable:

~~a. Definition of the extent of the problem;~~

~~b01. Indication of the action taken by the Director~~Level of episode that is declared;

~~g02. Location and description of the affected~~designated area.

~~a03. Definition of the extent of the problem~~Description of the cause of degraded air quality;

~~04e. Air pollution~~quality forecast for the next few days;

~~d05. Duration of the declaration and N~~notice of when the next statement from the Department will be issued;

~~e06. Listing of all general procedures~~requirements which applicable to the public, commercial, institutional and industrial sectors. ~~are required to follow;~~

~~f07. Specific warnings and advice to those persons who, because of acute or chronic health problems, may be most susceptible to the effects of the episode.~~

~~g. Location and description of the affected area.~~

Section 552 Requirements During Air Quality Episodes

55261. GENERAL RULES REQUIREMENTS DURING AIR QUALITY EPISODES.

All persons in the designated stricken area an area declared air quality episode must comply with the following requirements requirements. for the applicable declared episode. shall be governed by the following rules for each emergency episode stage. The Director Department may waive one (1) or more of the required measures requirements at each episode stage level if, on the basis of information available to him, he judges that a measure the requirement is an inappropriate response to the specific episode conditions which then exist.

01. Stage 1 Air Pollution Forecast and Caution Advisory. All open burning, as defined in Sections 600-624, is prohibited. There shall be nNo new ignition of open burning of any kind is allowed after an Advisory is declared. The Director Department may require, if practicable, or in an emergency situation, the cessation of any open burning.

02. Stage 2 Alert.

a. All open burning, as defined in Sections 600-624, is prohibited. No new ignition of open burning of any kind is allowed after an Alert is declared. The Department may require, if practicable, or in an emergency situation, the cessation of any open burning. There shall be no open burning of any kind.

b. The use of burners and incinerators for the disposal of any form of solid waste or liquid waste shall will be prohibited.

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m.

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available.

Sections 665 - 668 Regional Haze Rules

667. LONG-TERM STRATEGY FOR REGIONAL HAZE.

~~The purpose of Section 667 is to develop a long term strategy for making reasonable progress toward the national goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I Federal Areas in which impairment results from man made air pollution.~~

~~01. Submittal of Long Term Strategy. The Department will submit to EPA a long-term strategy that meets the requirements in 40 CFR 51.308(d)(3), addresses regional haze visibility impairment for each mandatory Class I Federal Area within the state and for each mandatory Class I Federal Area located outside the state which may be affected by emissions from within the state.~~

~~02. Enforceable Emission Limitations. The long term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals established by the Department.~~

~~03. Requirements for Long Term Strategy. In establishing long term strategy for regional haze, the Department will meet the following requirements:~~

~~a. The Department will document the technical basis, including modeling, monitoring and emissions information, on which the state is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal Area it affects. The Department may meet this requirement by relying on technical analyses developed by the regional planning organization and approved by all state participants. The Department will identify the baseline emission inventory on which its strategies are based. The baseline emissions inventory year is presumed to be the most recent year of the consolidated periodic emissions inventory.~~

Sections 563 – 574 Transportation Conformity

- Federal requirement
- Applies to agencies (ITD, DEQ, Metropolitan Planning Organizations)
- Communication and collaboration requirements
- Not appropriate in Rules
- Best addressed in MOU between agencies
- MOU is an approvable alternative for SIP

Section 614. Prescribed Fire

- 58.01.01.614 is currently in negotiated rulemaking with stakeholder group and Idaho Department of Lands (IDL).
- Moved definition to section
- Edited full definition to match IDLs
- Clarified other activities that create slash

e. The disposal of slash and woody debris resulting from any land management activity such as: a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system:

Section 613. Orchard Fires

613. ORCHARD FIRES.

The use of heating devices to protect orchard crops from frost damage and the use of fires to dispose of orchard clippings are allowable forms of open burning when the following provisions are met: (7-1-21)T

01. **Open-Pot Heaters.** The use of stackless open-pot heaters is prohibited. (7-1-21)T

02. **Heating Device Opacity.** Orchard heating device with visible emissions exceeding forty percent (40%) opacity at normal operating conditions shall not be used. Opacity shall be determined by the procedures contained in Section 625. (7-1-21)T

03. **Heating Device Emissions.** All heaters purchased after September 21, 1970, shall emit no more than one (1.0) gram per minute of solid carbonaceous matter at normal operating conditions as certified by the manufacturer. At the time of purchase, the seller shall certify in writing to the purchaser that all new equipment is in compliance with Section 613. (7-1-21)T

04. **Orchard Clippings.** The open burning of orchard clippings shall be conducted on the property where the clippings were generated. (7-1-21)T

613. ORCHARD FIRES.

~~The use of heating devices to protect orchard crops from frost damage and the use of fires to dispose~~ Fire used for the disposal of orchard clippings ~~are~~ is an allowable forms of open burning when the burning is conducted on the property where the clippings were generated. ~~following provisions are met:~~

Section 611. Residential Yard Waste

- Clarified to meet the intent for yard clean-up category.
- Remove the term “Solid Waste”
- Remove the term “Rubbish”
- Removed confusing limitation
- Reference Solid Waste Rules for definitions to ensure consistency across DEQ.

611. RESIDENTIAL ~~SOLID WASTE DISPOSAL~~ YARD WASTE FIRES.

Fire used for the disposal of ~~residential~~ yard waste, as defined in the Solid Waste Management Rules, IDAPA 58.01.06.006, at residential locations is an allowable form of open burning ~~when the following provisions are met~~ so long as the burning is conducted on the property where the yard waste was generated and not prohibited by local ordinances or rules.;

Section 621. Crop Residue – Burn Approval

01. ~~Burn Approval Criteria~~Operatingion Guide. The Department ~~shall~~will develop a Crop Residue Operating Guide to ~~use in assisting~~assist in the ~~determination of burn approvals~~decision process for approving burns.

02. Permittee approval process. The permittee ~~shall~~must obtain ~~initial approval~~the Registration Receipt and Initial Permit Requirements from the Department ~~for the proposed burn~~ at least twelve (12) hours in advance of the burn. The permittee ~~shall confirm, with~~must obtain final approval to burn from the Department, ~~the approval~~ the morning of the ~~proposed~~requested burn.

03. Burn Approval Criteria. ~~The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period.~~ To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standard (NAAQS) and seventy-five percent (75%) of the level of any other NAAQS on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 ~~of these rules~~. In making this determination, the Department ~~shall~~will consider the following:

Section 622. Crop Residue - General Provisions

- Removed Redundancies
- Common Terminology
- Ensured options for online training is clear
- No Change to 622.03 - Advisory Committee

Questions?



Next Steps

- Please review and provide comments
- Comment Deadline: 11/12/21
- Next meeting: 11/30/21

Thank you

